IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10503 of 1998

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KHEDA JILLA FACTORY KAMDAR UNION - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR PC MASTER for Petitioner No(s).: 1.

Mr. K.L. Pandya, AGP, for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2.

MR PARESH M DAVE for Respondent No(s).: 3.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 11/07/2005

ORAL JUDGMENT

1. By way of the present petition the petitioner has prayed for a direction declaring that Notification dated 21.9.1998 issued by the Government of Gujarat,Labour and Employment Department as illegal to the extent that it does not include abolition of contract labour system in the activity of loading and unloading from the

establishment of respondent no.3.

2. Mr. Master submitted that the State Government has committed an error in not issuing any prohibition orders in the case of loading and unloading workers. According to him the State Government ought to have included those workers also in the aforesaid Notification.

3. The short facts of the case are that on a complaint being made about contract labour system in the respondent no.3 establishment, the respondent no.1 sought advice of the State Labour Advisory Board on Contract Labour System. The Board advised the Government to abolish contract labour system from the establishment of respondent no.3. The Government thereafter issued Notification dated 21.9.1998 abolishing contract labour system for all activities except the activities of loading and unloading. It is under the aforesaid circumstance the petitioner Union has filed the present petition as stated hereinabove.

4. As a result of the hearing and perusal of the record I am of the opinion that the State Government has taken the decision after considering the report of the Board. The Board is the appropriate authority to take a decision in the matter and the State Government has followed the same. When the State Government has taken a decision based upon the report of the Board, it would not be appropriate for this court to sit in appeal over the said decision and substitute its decision. I, therefore, do not find any merits in the matter and the petition is accordingly dismissed. Rule is discharged with no order as to costs.

5. However, it will be open for the petitioner to take appropriate action in view of the subsequent developments which are prevailing as on today.

[K.S.JHAVERI, J.]

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